

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
LOUISIANA-PACIFIC CORPORATION,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 82-117

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

This matter, the appeal from the issuance of a civil penalty in the amount of \$250 for alleged violation of Section 9.15(a) of Regulation I, came before the Pollution Control Hearings Board, Lawrence J. Faulk, presiding, and Gayle Rothrock at an informal hearing in Lacey, Washington, on February 9, 1983.

Appellant was represented by Myron Moore; respondent was represented by its attorney, Keith D. McGoffin. The proceedings were electronically recorded.

Having heard the testimony, having examined the exhibits, having

1 considered the contentions of the parties, the Board makes these

2 FINDINGS OF FACT

3 I

4 pursuant to RCW 43.21B.260, respondent has filed with the Board a
5 certified copy of its Regulation I and amendments thereto, which are
6 noticed.

7 II

8 On August 4, 1982, at about 9:00 a.m., respondent's inspector
9 noticed dense sawdust emissions rising from appellant's site at 3701
10 Taylor Way in Tacoma. After properly positioning himself, he observed
11 the plume which was coming from baghouse vents on appellant's shavings
12 bin and recorded opacities ranging up to 50 percent at times for
13 approximately thirteen minutes. There was no evidence of precautions
14 being taken to prevent particulate matter from becoming airborne.
15 After discussing the matter with appellant's plant manager, the
16 inspector issued a Notice of Violation.

17 III

18 On August 16, 1982, respondent sent by certified mail Notice and
19 Order of Civil Penalty of \$250 for alleged violation of Section
20 9.15(a) of respondent's Regulation I. The civil penalty is the
21 subject of this appeal.

22 IV

23 Section 9.15 of Regulation I makes it unlawful for any person to
24 cause or permit particulate matter to be handled, transported or
25 stored without taking reasonable precautions to prevent particulate

26 FINAL FINDINGS OF FACT,
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1 matter from becoming airborne.

2 IV

3 The testimony revealed appellant has, since September 1982, taken
4 reasonable precautions to prevent the particulate matter in the
5 shavings baghouse from becoming airborne through use of a baghouse
6 design which effectively catches the particulate matter. However, for
7 awhile on the day of the violation the particulate control equipment
8 in the baghouse for the shavings bin, which receives shavings from the
9 planing mill was not operating. The motor which operated the
10 equipment had malfunctioned.

11 V

12 On July 28, 1982 (seven days preceding the date of the
13 aforementioned violation), the same inspector visited the appellant's
14 facility and informed LeRoy Dallman, the then Plant Manager, that he
15 had observed sawdust emissions from the shavings bin baghouse. He
16 informed Mr. Dallman that notices of violation would be issued if the
17 emissions were again observed by agency personnel.

18 VI

19 The appellant contends that an equipment malfunction had occurred
20 on the day of the violation and that corrective action was being
21 taken. Appellant further contends that respondent was aware of their
22 efforts to rectify the problem.

23 VII

24 Any Conclusion of Law which should be deemed a Finding of Fact is
25 hereby adopted as such.

26 FINAL FINDINGS OF FACT,
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1 From these Findings the Board comes to these

2 CONCLUSIONS OF LAW

3 I

4 Appellant violated Section 9.15(a) of Regulation I as alleged on
5 August 4, 1982, by allowing particulate matter to become airborne
6 without taking reasonable precautions to prevent it.

7 II

8 Under the provisions of Section 9.15(a), taking reasonable
9 precautions is a defense to a charge of allowing particulate matter to
10 become airborne. The appellant has been taking precautions to prevent
11 particulate matter from becoming airborne, since the respondent's
12 inspection on September 16, 1982. However, in this case, the cause of
13 the violation is a malfunction or breakdown of equipment on August 4,
14 1982.

15 III

16 Appellant did not follow the 9.16 procedure¹ of Regulation I for
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- 18 1. Emissions exceeding any of the limits established by this
19 Regulation as a direct result of start-ups, periodic shutdown, or
20 unavoidable and unforeseeable failure or breakdown, or unavoidable
21 and unforeseeable upset or breakdown of process equipment or
control apparatus, shall not be deemed in violation provided the
following requirements are met:

22 (1) The owner or operator of such process or equipment shall
23 immediately notify the Agency of such occurrence, together with
24 the pertinent facts relating thereto regarding nature of problem
as well as time, date, duration and anticipated influence on
emissions from the source.

25 (2) The owner or operator shall upon the request of the
26 Control Officer, submit a full report including the known causes
and the preventive measures to be taken to minimize or eliminate a
re-occurrence.

27 (Emphasis added.)

1 breakdowns. Therefore, that provision of the Regulation does not
2 apply.

3 IV

4 The Board concludes that appellant violated Section 9.15(a) on
5 August 4, 1982, as alleged.

6 V

7 Appellant has a record of three previous violations of Regulation
8 I which the Pollution Control Hearings Board affirmed on June 16, 1982.

9 VI

10 The civil penalty in the amount of \$250 should be affirmed.

11 VII

12 Any Finding of Fact which should be deemed a Conclusion of Law is
13 hereby adopted as such.

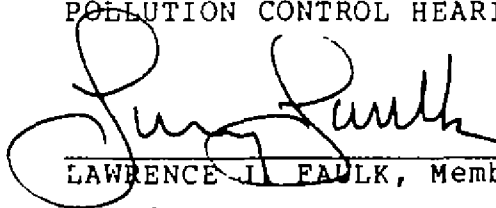
14 From these Conclusions the Board enters this
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ORDER

The civil penalty in the amount of \$250 is affirmed.

DATED this 1st day of March, 1983.

POLLUTION CONTROL HEARINGS BOARD


LAWRENCE J. FAULK, Member


GAYLE ROTHROCK, Chairman